

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE, INC.,
Plaintiff,
v.
GOOGLE, INC.,
Defendant.

Case No. 5:13-mc-80146 LHK (HRL)

**ORDER ON DISCOVERY DISPUTE
JOINT REPORT #1**

[Re: Dkt. No. 14]

Apple sues Motorola in the Southern District of Florida. Motorola makes and sells mobile devices containing Google's Android operating system and associated software ("Android"). Apple contends that Android contains certain features that infringe its patents.

This discovery dispute is between Apple and non-party Google. Apple seeks documents (which the court understands includes Electronically Stored Information) relating to whether or to what extent Google copied or compared Apple's features to Android's. Google maintains that it has produced all such documentation as to the particular Android features accused in Apple's suit. It likewise asserts that it produced information on non-accused Android features where such information was intermingled with the documentation on accused features. What it refuses to produce is documentation that relates solely to non-accused features.

Apple wants the court to order Google to produce the documentation on the non-accused features. Apple says it needs that to bolster its claims for damages, as well as help establish non-


1 obviousness and willfulness. Google, in effect, retorts that such documentation does not register
2 even a blip on the relevance scale and that any legitimate use of comparison information is
3 cabined by the accused features.

4 It seems to the court that Apple wants to rummage through information on unrelated
5 features to see if it might turn up something useful. But that is not a good reason to grant
6 discovery, and the arguments Apple makes are unpersuasive. Google's offer to do another search,
7 limited only to the accused features, does not address what Apple wants, and the court will not
8 order it done. Fed. R. Civ. P. 26(b)(2)(C).

9 Apple's request for additional discovery is denied.

10 **SO ORDERED.**

11 Dated: December 13, 2013

12 
13 _____
14 HOWARD R. LLOYD
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28

5:13-mc-80146-LHK Notice has been electronically mailed to:

Anne Marie Cappella anne.cappella@weil.com, colleen.sphar@weil.com,
linda.nakanishi@weil.com

Mark G. Davis mark.davis@weil.com

Matthew S. Warren matthewwarren@courtpapers.info, matthewwarren@quinnemanuel.com

United States District Court
Northern District of California